

SENATE BILL No. 641

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-8.1-1-1; IC 6-10.

Synopsis: Local option property tax replacements. Authorizes counties, cities, and towns to adopt local sales taxes, fuel taxes, alcoholic beverage taxes, tobacco taxes, and firework taxes. Establishes the county tax council consisting of the county fiscal body and the fiscal bodies of each city and town located in the county. Authorizes the county tax council to adopt local taxes to be distributed to each of the units represented on the county tax council. Provides that the local taxes authorized are in addition to other taxes authorized under Indiana law. Provides that the authorized taxes shall be used for property tax replacement.

Effective: July 1, 2005.

Mrvan

January 24, 2005, read first time and referred to Committee on Rules and Legislative Procedure.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 641

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-8.1-1-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. "Listed taxes" or
3 "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through
4 IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat
5 wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1) (repealed);
6 the utility receipts tax (IC 6-2.3); the state gross retail and use taxes
7 (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net
8 income tax (IC 6-3-8) (repealed); the county adjusted gross income tax
9 (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county
10 economic development income tax (IC 6-3.5-7); the municipal option
11 income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the
12 financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the
13 alternative fuel permit fee (IC 6-6-2.1); the special fuel tax
14 (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax
15 collected under a reciprocal agreement under IC 6-8.1-3; the motor
16 vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax
17 (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the

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cigarette tax (IC 6-7-1); **a local tax adopted under IC 6-10**; the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various county food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 2. IC 6-10 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2005]:

ARTICLE 10. LOCAL PROPERTY TAX REPLACEMENT

Chapter 1. General Policy

Sec. 1. This article shall be construed liberally and is in addition and supplemental to the powers conferred by any other law. A unit may enact any revenue producing measure under this article that the unit determines to be in the best interests of the unit.

Sec. 2. Taxes that may be imposed under this article are in addition to any taxes that may be imposed by a unit under any other Indiana law.

Sec. 3. This article applies only to counties, cities, and towns.

Sec. 4. A tax imposed under this article is a listed tax for purposes of IC 6-8.1.

Chapter 2. Definitions

Sec. 1. The definitions in IC 6-2.5-1, IC 36-1-2, and this chapter apply throughout this article.

Sec. 2. "Alcohol" has the meaning set forth in IC 7.1-1-3-4.

Sec. 3. "Alcoholic beverage" has the meaning set forth in IC 7.1-1-3-5.

Sec. 4. "Cigarette" has the meaning set forth in IC 6-7-1-2.

Sec. 5. "Department" refers to the department of state revenue.

Sec. 6. "Firework" has the meaning set forth in IC 22-11-14-1.

Sec. 7. "Fuel" means:

- (1) gasoline; or
- (2) special fuel.

Sec. 8. "Gasoline" has the meaning set forth in IC 6-6-1.1-103.

Sec. 9. "Smoking paraphernalia" means:

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1 (1) cigarette papers;
 2 (2) wrappers; and
 3 (3) tubes;
 4 upon which a tax is imposed by IC 6-7-1-12 and IC 6-7-1-13.

5 Sec. 10. "Special fuel" has the meaning set forth in
 6 IC 6-6-2.5-22.

7 Sec. 11. "Tobacco product" means:

- 8 (1) any product made from tobacco, other than a cigarette,
 9 that is made for smoking or chewing, or both; or
 10 (2) snuff.

11 Sec. 12. "Unit" means a county, city, or town. The term does not
 12 include a township.

13 Chapter 3. County Tax Council Procedures

14 Sec. 1. (a) A county tax council is established for each county in
 15 Indiana. The membership of each county's county tax council
 16 consists of the fiscal body of the county and the fiscal body of each
 17 city or town that lies either partially or entirely within that county.

18 (b) Each county tax council has a total of one hundred (100)
 19 votes. Each member of the county tax council is allocated a
 20 percentage of the total one hundred (100) votes that may be cast.
 21 The percentage that a city or town is allocated for a year equals the
 22 same percentage that the population of the city or town bears to
 23 the population of the county. The percentage that the county is
 24 allocated for a year equals the same percentage that the population
 25 of all areas in the county not located in a city or town bears to the
 26 population of the county. On or before January 1 of each year, the
 27 county auditor shall certify to each member of the county tax
 28 council the number of votes, rounded to the nearest one-hundredth
 29 (0.01), it has for that year.

30 (c) In the case of a city or town that lies within more than one
 31 (1) county, the county auditor of each county shall base the
 32 allocations required by subsection (b) on the population of that
 33 part of the city or town that lies within the county for which the
 34 allocations are being made.

35 Sec. 2. (a) Using the procedures described in this chapter, a
 36 county tax council may adopt ordinances to:

- 37 (1) impose, increase, decrease, or repeal a local gross retail tax
 38 described in IC 6-10-4 in its county;
 39 (2) impose, increase, decrease, or repeal a local fuel tax
 40 described in IC 6-10-5 in its county;
 41 (3) impose, increase, decrease, or repeal a local alcoholic
 42 beverage tax described in IC 6-10-6 in its county;

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(4) impose, increase, decrease, or repeal a local tobacco tax described in IC 6-10-7 in its county; and

(5) impose, increase, decrease, or repeal a local firework tax described in IC 6-10-8 in its county.

(b) An ordinance adopted by a county tax council under this chapter takes effect on January 1 of the year following the year in which the ordinance is adopted.

(c) If the county tax council adopts an ordinance in accordance with this chapter, the county auditor shall immediately send a certified copy of the ordinance to the department.

Sec. 3. Any member of a county tax council may present an ordinance for passage. To do so, the member must pass a resolution to propose the ordinance to the county tax council and distribute a copy of the proposed ordinance to the auditor of the county. The auditor of the county shall treat any proposed ordinance presented to the auditor under this section as a casting of all that member's votes in favor of that proposed ordinance. Subject to the limitations of section 5 of this chapter, the auditor of the county shall deliver copies of a proposed ordinance the auditor receives to all members of the county tax council within ten (10) days after receipt. Once a member receives a proposed ordinance from the auditor of the county, the member shall vote on it within thirty (30) days after receipt.

Sec. 4. (a) A member of the county tax council may exercise its votes by passing a resolution and transmitting the resolution to the auditor of the county. The form of a resolution is as follows:

"The _____ (name of unit's fiscal body) casts its _____ votes _____ (for or against) the proposed ordinance of the County Tax Council, which reads as follows: [insert text of ordinance].".

(b) A resolution passed by a member of the county tax council exercises all votes of the member on the proposed ordinance, and those votes may not be changed during the year.

Sec. 5. (a) After January 1 but before August 1, a county tax council may pass:

- (1) one (1) ordinance concerning a local gross retail tax;
- (2) one (1) ordinance concerning a local fuel tax;
- (3) one (1) ordinance concerning a local alcoholic beverage tax;
- (4) one (1) ordinance concerning a local tobacco tax; and
- (5) one (1) ordinance concerning a local firework tax;

under this article.

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(b) Once an ordinance described in subsection (a) has been passed, the auditor of the county shall:

(1) cease distributing proposed ordinances of the type that has been passed for the rest of the year; and

(2) withdraw any other proposed ordinances of the type that has been passed.

Any votes subsequently received by the auditor of the county on proposed ordinances of the type that has previously been passed during that same year are void.

(c) The county tax council may not vote on, nor may the auditor of the county distribute to the members of the county tax council, any proposed ordinance during a year if previously during that same year the auditor of the county received and distributed to the members of the county tax council a proposed ordinance that, if passed, would have had substantially the same effect.

(d) The county tax council may not vote on, nor may the auditor of the county distribute to the members of the county tax council, any ordinance during a year to impose a local gross retail tax if previously during that same year the fiscal body of a unit in the county has adopted an ordinance to impose a local gross retail tax within the fiscal body's unit.

(e) The county tax council may not vote on, nor may the auditor of the county distribute to the members of the county tax council, any ordinance during a year to impose a local fuel tax if previously during that same year the fiscal body of a unit in the county has adopted an ordinance to impose a local fuel tax within the fiscal body's unit.

(f) The county tax council may not vote on, nor may the auditor of the county distribute to the members of the county tax council, any ordinance during a year to impose a local alcoholic beverage tax if previously during that same year the fiscal body of a unit in the county has adopted an ordinance to impose a local alcoholic beverage tax within the fiscal body's unit.

(g) The county tax council may not vote on, nor may the auditor of the county distribute to the members of the county tax council, any ordinance during a year to impose a local tobacco tax if previously during that same year the fiscal body of a unit in the county has adopted an ordinance to impose a local tobacco tax within the fiscal body's unit.

(h) The county tax council may not vote on, nor may the auditor of the county distribute to the members of the county tax council, any ordinance during a year to impose a local firework tax if

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1 previously during that same year the fiscal body of a unit in the
 2 county has adopted an ordinance to impose a local firework tax
 3 within the fiscal body's unit.

4 **Sec. 6.** Before a member of the county tax council may propose
 5 an ordinance or vote on a proposed ordinance, the member must
 6 hold a public hearing on the proposed ordinance, with notice of the
 7 time, date, and place of the public hearing given in accordance with
 8 IC 5-3-1.

9 **Sec. 7.** An ordinance adopted under this chapter must specify
 10 the rate at which the:

- 11 (1) local gross retail tax;
- 12 (2) local fuel tax;
- 13 (3) local alcoholic beverage tax;
- 14 (4) local tobacco tax; or
- 15 (5) local firework tax;

16 is imposed.

17 **Sec. 8.** An ordinance adopted under this chapter must specify
 18 that revenues shall be distributed on the basis of maximum levies
 19 as described in section 9 of this chapter.

20 **Sec. 9.** The amount of revenues that the county and each city or
 21 town in the county is entitled to receive during a month equals the
 22 product of:

- 23 (1) the total amount of the revenues to be distributed for that
- 24 month; multiplied by
- 25 (2) a fraction. The numerator of the fraction equals the
- 26 maximum permissible property tax levy (as determined under
- 27 IC 6-1.1-18-3) of the county, city, or town during the calendar
- 28 year in which the month falls. The denominator of the
- 29 fraction equals the sum of the maximum permissible property
- 30 tax levies of the county and all cities and towns of the county
- 31 during the calendar year in which the month falls.

32 **Chapter 4. Local Gross Retail Taxes**

33 **Sec. 1. (a)** After January 1 but before August 1:

- 34 (1) the fiscal body of a unit; or
- 35 (2) the county tax council;

36 may adopt an ordinance to impose a local gross retail tax under
 37 this chapter.

38 (b) The county tax council must comply with the procedures set
 39 forth in IC 6-10-3 to adopt an ordinance to impose a local gross
 40 retail tax under this chapter.

41 (c) Before a fiscal body may adopt an ordinance imposing a
 42 local gross retail tax, the fiscal body must hold a public hearing on

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the proposed ordinance, with notice of the time, date, and place of the public hearing given in accordance with IC 5-3-1.

(d) If a fiscal body adopts an ordinance under this chapter, it shall immediately send a certified copy of the ordinance to the department.

(e) If a fiscal body adopts an ordinance under this chapter, the ordinance takes effect January 1 of the year following the year in which the ordinance is adopted.

(f) This subsection does not apply to a county governed under IC 36-2-3.5. If the fiscal body of a county adopts an ordinance under this chapter, the county executive must also adopt a substantially similar ordinance to impose the tax.

(g) This subsection applies only to a county governed under IC 36-2-3.5. If the fiscal body of a county adopts an ordinance under this chapter, the county executive must approve the ordinance in the manner prescribed by IC 36-2-4-8 to impose the tax.

(h) The fiscal body may not adopt an ordinance to impose a local gross retail tax if, previously during that same year, the county tax council has adopted an ordinance imposing a local gross retail tax in the county.

Sec. 2. (a) A local gross retail tax imposed under this chapter applies to any transaction on which the state gross retail tax is imposed under IC 6-2.5 and that occurs in the unit imposing the tax.

(b) The local gross retail tax rate imposed on the gross retail income received by a retail merchant from a transaction described in subsection (a) may not exceed one percent (1%).

(c) For purposes of this chapter, the gross retail income received by the retail merchant from a transaction described in subsection (a) does not include:

- (1) the amount of tax imposed on the transaction under IC 6-2.5; or
- (2) the amount of tax imposed on the transaction under any other provision of this article.

Sec. 3. (a) The:

- (1) fiscal body; or
- (2) county tax council;

that imposed the tax may adopt an ordinance to increase, decrease, or repeal a local gross retail tax under this chapter. The ordinance must be adopted after January 1 but before August 1 of a year.

(b) The county tax council must comply with the procedures set

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1 forth in IC 6-10-3 to adopt an ordinance under this section.

2 Sec. 4. A local gross retail tax imposed under this chapter shall
3 be imposed, paid, and collected in the same manner that the state
4 gross retail tax is imposed, paid, and collected under IC 6-2.5.
5 However, the return that is filed for the payment of the tax may be
6 made on a separate return or may be combined with the return
7 filed for the payment of the state gross retail tax as prescribed by
8 the department.

9 Sec. 5. (a) If the fiscal body of a unit has imposed a local gross
10 retail tax under this chapter, the department shall notify the fiscal
11 officer of the unit of the amount of tax paid in the unit.

12 (b) If a county tax council has imposed a local gross retail tax
13 under this chapter, the department shall report the total amount
14 of tax paid in the county to the fiscal officer of each of the units
15 represented on the county tax council.

16 (c) The amounts received from a local gross retail tax imposed
17 under this chapter shall be paid monthly by the treasurer of state
18 on warrants issued by the auditor of state:

19 (1) to the fiscal officer of the unit that imposed the tax, if the
20 tax was imposed by the fiscal body of a unit; or

21 (2) to the fiscal officer of each of the units whose fiscal bodies
22 are members of the county tax council, if the local gross retail
23 tax has been imposed by a county tax council, in accordance
24 with the ordinance of the county tax council.

25 Chapter 5. Local Fuel Tax

26 Sec. 1. (a) After January 1 but before August 1:

27 (1) the fiscal body of a unit; or

28 (2) a county tax council;

29 may adopt an ordinance to impose a local fuel tax under this
30 chapter.

31 (b) A county tax council must comply with the procedures set
32 forth in IC 6-10-3 to adopt an ordinance to impose a local fuel tax
33 under this chapter.

34 (c) Before a fiscal body may adopt an ordinance imposing a
35 local fuel tax, the fiscal body must hold a public hearing on the
36 proposed ordinance, with notice of the time, date, and place of the
37 public hearing given in accordance with IC 5-3-1.

38 (d) If a fiscal body adopts an ordinance under this chapter, the
39 fiscal body shall immediately send a certified copy of the ordinance
40 to the department.

41 (e) If a fiscal body adopts an ordinance under this chapter, the
42 ordinance takes effect January 1 of the year following the year in

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which the ordinance is adopted.

(f) This subsection does not apply to a county governed under IC 36-2-3.5. If the fiscal body of a county adopts an ordinance under this chapter, the county executive must also adopt a substantially similar ordinance to impose the tax.

(g) This subsection applies only to a county governed under IC 36-2-3.5. If the fiscal body of a county adopts an ordinance under this chapter, the county executive must approve the ordinance in the manner prescribed by IC 36-2-4-8 to impose the tax.

(h) A fiscal body may not adopt an ordinance to impose a local fuel tax if, previously during that same year, the county tax council has adopted an ordinance imposing a local fuel tax in the county.

(i) An ordinance adopted under this section must specify the rate of the local fuel tax, which may not exceed one percent (1%).

Sec. 2. (a) The:

(1) fiscal body; or

(2) county tax council;

that imposed the local fuel tax may adopt an ordinance to increase, decrease, or repeal the local fuel tax under this chapter. The ordinance must be adopted after January 1 but before August 1 of a year.

(b) The county tax council must comply with the procedures set forth in IC 6-10-3 to adopt an ordinance to repeal a local fuel tax under this chapter.

Sec. 3. (a) With respect to the sale of gasoline that is dispensed from a metered pump, a retail merchant located in a unit imposing the local fuel tax under this chapter shall collect, for each unit of gasoline sold, a local fuel tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:

(1) the price per unit before the addition of state and federal taxes; multiplied by

(2) the tax rate imposed by an ordinance adopted under section 1 of this chapter.

The retail merchant shall collect the local fuel tax prescribed in this section even if the transaction is exempt from taxation under section 6 of this chapter.

(b) With respect to the sale of special fuel that is dispensed from a metered pump, unless the purchaser provides an exemption certificate in accordance with IC 6-2.5-8-8, a retail merchant shall collect, for each unit of special fuel sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of

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one cent (\$0.001), of:

(1) the price per unit before the addition of state and federal taxes; multiplied by

(2) the tax rate imposed by an ordinance adopted under section 1 of this chapter.

Unless the exemption certificate is provided, the retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under section 6 of this chapter.

Sec. 4. A local fuel tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected on fuel under IC 6-2.5-7. However, the return that is filed for the payment of the tax may be made on a separate return or may be combined with the return filed for the payment of the state gasoline tax as prescribed by the department.

Sec. 5. (a) If the fiscal body of a unit has imposed a local fuel tax under this chapter, the department shall notify the fiscal officer of the unit of the amount of tax paid in the unit.

(b) If a county tax council has imposed a local fuel tax under this chapter, the department shall report the total amount of tax paid in the county to the fiscal officer of each of the units represented on the county tax council.

(c) The amounts received from a local fuel tax imposed under this chapter shall be paid monthly by the treasurer of state on warrants issued by the auditor of state:

(1) to the fiscal officer of the unit that imposed the tax, if the tax was imposed by the fiscal body of a unit; or

(2) to the fiscal officer of each of the units whose fiscal bodies are members of the county tax council, if the local fuel tax has been imposed by a county tax council, in accordance with the ordinance of the county tax council.

Sec. 6. A transaction that is exempt from taxation under IC 6-2.5-5 is exempt from a local fuel tax imposed under this chapter.

Chapter 6. Local Alcoholic Beverage Tax

Sec. 1. (a) After January 1 but before August 1:

(1) the fiscal body of a unit; or

(2) a county tax council;

may adopt an ordinance to impose a local alcoholic beverage tax under this chapter.

(b) A county tax council must comply with the procedures set

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1 forth in IC 6-10-3 to adopt an ordinance to impose a local alcoholic
2 beverage tax under this chapter.

3 (c) Before a fiscal body may adopt an ordinance imposing a
4 local alcoholic beverage tax, the fiscal body must hold a public
5 hearing on the proposed ordinance, with notice of the time, date,
6 and place of the public hearing given in accordance with IC 5-3-1.

7 (d) If a fiscal body adopts an ordinance under this chapter, it
8 shall immediately send a certified copy of the ordinance to the
9 department.

10 (e) If a fiscal body adopts an ordinance under this chapter, the
11 ordinance takes effect January 1 of the year following the year in
12 which the ordinance is adopted.

13 (f) This subsection does not apply to a county governed under
14 IC 36-2-3.5. If the fiscal body of a county adopts an ordinance
15 under this chapter, the county executive must also adopt a
16 substantially similar ordinance to impose the tax.

17 (g) This subsection applies only to a county governed under
18 IC 36-2-3.5. If the fiscal body of a county adopts an ordinance
19 under this chapter, the county executive must approve the
20 ordinance in the manner prescribed by IC 36-2-4-8 to impose the
21 tax.

22 (h) A fiscal body may not adopt an ordinance to impose a local
23 alcoholic beverage tax if, previously during that same year, the
24 county tax council has adopted an ordinance imposing a local
25 alcoholic beverage tax in the county.

26 Sec. 2. (a) The:

27 (1) fiscal body; or

28 (2) county tax council;

29 that imposed the tax may adopt an ordinance to increase, decrease,
30 or repeal a local alcoholic beverage tax under this chapter. The
31 ordinance must be adopted after January 1 but before August 1 of
32 a year.

33 (b) The county tax council must comply with the procedures set
34 forth in IC 6-10-3 to adopt an ordinance under this section.

35 Sec. 3. (a) A local alcoholic beverage tax imposed under this
36 chapter applies to any transaction in which an alcoholic beverage
37 is furnished, prepared, or served:

38 (1) for consumption at a location, or on equipment, provided
39 by a retail merchant;

40 (2) in the unit in which the tax is imposed; and

41 (3) by the retail merchant for consideration.

42 (b) Transactions subject to a local alcoholic beverage tax include

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1 transactions in which an alcoholic beverage is:

2 (1) served by a retail merchant off the merchant's premises;

3 or

4 (2) sold by a retail merchant on a "carryout" or "to go" basis.

5 (c) The local alcoholic beverage tax rate imposed under this
6 chapter on the gross retail income received by a retail merchant
7 from a transaction described in this section may not exceed two
8 percent (2%).

9 (d) For purposes of this chapter, the gross retail income received
10 by the retail merchant from a transaction described in this section
11 does not include:

12 (1) the amount of tax imposed on the transaction under
13 IC 6-2.5 or IC 7.1; or

14 (2) the amount of tax imposed under IC 6-10-4, if any.

15 Sec. 4. A local alcoholic beverage tax imposed under this
16 chapter shall be imposed, paid, and collected in the same manner
17 that the state gross retail tax is imposed, paid, and collected under
18 IC 6-2.5. However, the return that is filed for the payment of the
19 tax may be made on a separate return or may be combined with
20 the return filed for the payment of the state gross retail tax as
21 prescribed by the department.

22 Sec. 5. (a) The department shall notify the fiscal officer of a unit
23 that imposes a local alcoholic beverage tax under this chapter of
24 the amount of tax paid in the unit.

25 (b) If a county tax council has imposed a local alcoholic
26 beverage tax under this chapter, the department shall report the
27 total amount of tax paid in the county to the fiscal officer of each
28 of the units represented on the county tax council.

29 (c) The amounts received from a local alcoholic beverage tax
30 imposed under this chapter shall be paid monthly by the treasurer
31 of state on warrants issued by the auditor of state:

32 (1) to the fiscal officer of the unit that imposed the tax, if the
33 tax was imposed by the fiscal body of a unit; or

34 (2) to the fiscal officer of each of the units represented on the
35 county tax council, if the local alcoholic beverage tax has been
36 imposed by a county tax council, in accordance with the
37 ordinance of the county tax council.

38 Chapter 7. Local Tobacco Taxes

39 Sec. 1. (a) After January 1 but before August 1:

40 (1) the fiscal body of a unit; or

41 (2) a county tax council;

42 may adopt an ordinance to impose a local tobacco tax under this

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chapter.

(b) A county tax council must comply with the procedures set forth in IC 6-10-3 to adopt an ordinance to impose a local tobacco tax under this chapter.

(c) Before a fiscal body may adopt an ordinance imposing a local tobacco tax, the fiscal body must hold a public hearing on the proposed ordinance, with notice of the time, date, and place of the public hearing given in accordance with IC 5-3-1.

(d) If a fiscal body adopts an ordinance under this chapter, it shall immediately send a certified copy of the ordinance to the department.

(e) If a fiscal body adopts an ordinance under this chapter, the ordinance takes effect January 1 of the year following the year in which the ordinance is adopted.

(f) This subsection does not apply to a county governed under IC 36-2-3.5. If the fiscal body of a county adopts an ordinance under this chapter, the county executive must also adopt a substantially similar ordinance to impose the tax.

(g) This subsection applies only to a county governed under IC 36-2-3.5. If the fiscal body of a county adopts an ordinance under this chapter, the county executive must approve the ordinance in the manner prescribed by IC 36-2-4-8 to impose the tax.

(h) A fiscal body may not adopt an ordinance to impose a local tobacco tax if, previously during that same year, the county tax council has adopted an ordinance imposing a local tobacco tax in the county.

Sec. 2. (a) The:

(1) fiscal body; or

(2) county tax council;

that imposed the tax may adopt an ordinance to increase, decrease, or repeal a local tobacco tax under this chapter. The ordinance must be adopted after January 1 but before August 1 of a year.

(b) The county tax council must comply with the procedures set forth in IC 6-10-3 to adopt an ordinance under this section.

Sec. 3. (a) A local tobacco tax imposed under this chapter applies to any transaction in which cigarettes, tobacco products, or smoking paraphernalia are:

(1) provided by a retail merchant;

(2) in the unit in which the tax is imposed; and

(3) by the retail merchant for consideration.

(b) The local tobacco tax rate imposed under this chapter on the

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gross retail income received by a retail merchant from a transaction described in this section may not exceed two percent (2%).

(c) For purposes of this chapter, the gross retail income received by the retail merchant from a transaction described in subsection (a) does not include:

(1) the amount of tax imposed on the transaction under IC 6-2.5 or IC 6-7; or

(2) the amount of tax imposed under IC 6-10-4, if any.

Sec. 4. A local tobacco tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return that is filed for the payment of the tax may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax as prescribed by the department.

Sec. 5. (a) The department shall notify the fiscal officer of a unit that imposes a local tobacco tax under this chapter of the amount of tax paid in the unit.

(b) If a county tax council has imposed a local tobacco tax under this chapter, the department shall report the total amount of tax paid in the county to the fiscal officer of each of the units represented on the county tax council.

(c) The amounts received from a local tobacco tax imposed under this chapter shall be paid monthly by the treasurer of state on warrants issued by the auditor of state:

(1) to the fiscal officer of the unit that imposed the tax, if the tax was imposed by the fiscal body of a unit; or

(2) to the fiscal officer of each of the units represented on the county tax council, if the local tobacco tax has been imposed by a county tax council, in accordance with the ordinance of the county tax council.

Chapter 8. Local Firework Tax

Sec. 1. (a) After January 1 but before August 1:

(1) the fiscal body of a unit; or

(2) a county tax council;

may adopt an ordinance to impose a local firework tax under this chapter.

(b) A county tax council must comply with the procedures set forth in IC 6-10-3 to adopt an ordinance to impose a local firework tax under this chapter.

(c) Before a fiscal body may adopt an ordinance imposing a

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1 local firework tax, the fiscal body must hold a public hearing on
 2 the proposed ordinance, with notice of the time, date, and place of
 3 the public hearing given in accordance with IC 5-3-1.

4 (d) If a fiscal body adopts an ordinance under this chapter, it
 5 shall immediately send a certified copy of the ordinance to the
 6 department.

7 (e) If a fiscal body adopts an ordinance under this chapter, the
 8 ordinance takes effect January 1 of the year following the year in
 9 which the ordinance is adopted.

10 (f) This subsection does not apply to a county governed under
 11 IC 36-2-3.5. If the fiscal body of a county adopts an ordinance
 12 under this chapter, the county executive must also adopt a
 13 substantially similar ordinance to impose the tax.

14 (g) This subsection applies only to a county governed under
 15 IC 36-2-3.5. If the fiscal body of a county adopts an ordinance
 16 under this chapter, the county executive must approve the
 17 ordinance in the manner prescribed by IC 36-2-4-8 to impose the
 18 tax.

19 (h) A fiscal body may not adopt an ordinance to impose a local
 20 firework tax if, previously during that same year, the county tax
 21 council has adopted an ordinance imposing a local firework tax in
 22 the county.

23 Sec. 2. (a) The:

24 (1) fiscal body; or

25 (2) county tax council;

26 that imposed the tax may adopt an ordinance to increase, decrease,
 27 or repeal a local firework tax under this chapter. The ordinance
 28 must be adopted after January 1 but before August 1 of a year.

29 (b) The county tax council must comply with the procedures set
 30 forth in IC 6-10-3 to adopt an ordinance under this section.

31 Sec. 3. (a) A local firework tax imposed under this chapter
 32 applies to any transaction in which a firework is:

33 (1) provided by a retail merchant;

34 (2) in the unit in which the tax is imposed; and

35 (3) by the retail merchant for consideration.

36 (b) The local firework tax rate imposed under this chapter on
 37 the gross retail income received by a retail merchant from a
 38 transaction described in this section may not exceed two percent
 39 (2%).

40 (c) For purposes of this chapter, the gross retail income received
 41 by the retail merchant from a transaction described in subsection
 42 (a) does not include:

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1 (1) the amount of tax imposed on the transaction under
2 IC 6-2.5; or

3 (2) the amount of tax imposed under IC 6-10-4, if any.

4 **Sec. 4. A local firework tax imposed under this chapter shall be**
5 **imposed, paid, and collected in the same manner that the state**
6 **gross retail tax is imposed, paid, and collected under IC 6-2.5.**
7 **However, the return that is filed for the payment of the tax may be**
8 **made on a separate return or may be combined with the return**
9 **filed for the payment of the state gross retail tax as prescribed by**
10 **the department.**

11 **Sec. 5. (a) The department shall notify the fiscal officer of a unit**
12 **that imposes a local firework tax under this chapter of the amount**
13 **of tax paid in the unit.**

14 **(b) If a county tax council has imposed a local firework tax**
15 **under this chapter, the department shall report the total amount**
16 **of tax paid in the county to the fiscal officer of each of the units**
17 **represented on the county tax council.**

18 **(c) The amounts received from a local firework tax imposed**
19 **under this chapter shall be paid monthly by the treasurer of state**
20 **on warrants issued by the auditor of state:**

21 **(1) to the fiscal officer of the unit that imposed the tax, if the**
22 **tax was imposed by the fiscal body of a unit; or**

23 **(2) to the fiscal officer of each of the units represented on the**
24 **county tax council, if the local firework tax has been imposed**
25 **by a county tax council, in accordance with the ordinance of**
26 **the county tax council.**

27 **Chapter 9. Use of Revenue**

28 **Sec. 1. Revenue derived from the imposition of a tax under this**
29 **article shall be used by each unit receiving the revenue to reduce**
30 **the unit's property tax levy for the ensuing budget year.**

31 **Sec. 2. The department of local government finance shall reduce**
32 **a unit's maximum permissible property tax levy for the ensuing**
33 **budget year by the amount of revenue received from a tax imposed**
34 **under this article in the current year.**

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